

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (Amended After Comments)

3 13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant.

4 RELATES TO: KRS 164.020(37), 164.945, 164.946, 164.947, 164.992

5 STATUTORY AUTHORITY: KRS 164.785

6 NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is
7 promulgated pursuant to KRS 164.785 which requires that beginning with the 2011-2012 academic
8 year programs or campuses of any out-of-state postsecondary education college that is licensed by
9 the Council on Postsecondary Education to operate in Kentucky and whose institutional programs
10 are not composed solely of sectarian instruction, but in which accreditation by the Southern
11 Association of Colleges and Schools is not an option, shall be reviewed and approved by the
12 Council on Postsecondary Education based on accreditation criteria that mirrors Southern
13 Association of Colleges and Schools accreditation criteria in order to qualify as an eligible college
14 in which a student may enroll and receive a Kentucky tuition grant.

15 Section 1. General Requirements. (1) If an out-of-state college licensed by the Council on
16 Postsecondary Education is seeking to qualify as an eligible college in which a student may enroll
17 and receive a Kentucky tuition grant, and if accreditation by the Southern Association of Colleges
18 and Schools is not an option for the college, then the college shall apply with the Council on
19 Postsecondary Education per this regulation.

1 (2) (a) Approval by the Council on Postsecondary Education per this regulation shall be for
2 the sole purpose of qualifying a Kentucky campus or campuses of a college as an eligible college
3 in which a Kentucky student may enroll and receive a Kentucky tuition grant, and shall not mean
4 that the college is accredited by the Commission on Colleges of the Southern Association of
5 Colleges and Schools, the Council on Postsecondary Education, or any other agency.

6 (b) A college shall not represent its status under this regulation as seeking or being
7 accredited by the Commission on Colleges of the Southern Association of Colleges and Schools,
8 the Council on Postsecondary Education, or any other agency.

9 (3) (a) A college seeking eligibility under this regulation shall submit the "Application for
10 Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" herein
11 incorporated by reference for each licensed Kentucky program and instructional site to the
12 president, and make available to the president the application and all documentation required via
13 an electronic data portal on the college's website.

14 (b) A college that seeks to be eligible under this administrative regulation beginning with
15 the 2011-2012 academic year shall submit a complete and accurate "Application for Council on
16 Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30, 2010.

17 (c) After May 30, 2010, a college that seeks to be eligible under this administrative
18 regulation shall submit a complete and accurate "Application for Council on Postsecondary
19 Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30 of the year prior to the
20 first academic year for which it seeks to be eligible.

21 (4) The college shall pay a nonrefundable fee of \$1,000 to the Council on Postsecondary
22 Education with the submission of the application. Review of the application shall not occur until
23 the fee is paid by the college. This fee shall be in addition to any costs associated with a site visit.

1 (5) The president shall review the application and documentation submitted by the
2 applicant college.

3 (6) Site Visits.

4 (a) Within ninety (90) working days of the receipt of a full and complete "Application for
5 Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" or
6 notification of a substantive change, the president may conduct, or may have conducted, a site
7 visit.

8 (b) Personnel conducting a site visit shall possess the expertise appropriate to the type of
9 college to be visited. In selecting personnel, the president may consider the person's
10 professional experience in higher education, experience conducting site visits at
11 postsecondary education institutions, familiarity with current accreditation requirements of
12 accrediting agencies including the Southern Association of Colleges and Schools, and
13 graduate or professional degree from an accredited institution. The president may use
14 Council staff or may contract with external consultants using the state's Request for
15 Proposal (RFP) process.

16 (c) The purpose of a site visit shall be to make an assessment of a licensed Kentucky
17 campus or campuses of a college using the standards as set forth in this administrative regulation.

18 (d) The president may conduct, or may have conducted, an announced or unannounced site
19 visit of a licensed college approved under this regulation during reasonable business hours to
20 inspect the files, facilities, and equipment as well as conduct interviews to determine the college's
21 eligibility under this administrative regulation.

22 (e) Failure to provide full access to the college's files, facilities, and equipment or
23 prevention of interviews shall be grounds for ineligibility under this administrative regulation.

1 (f) All costs associated with a site visit and subsequent visits as may be necessary, such as
2 travel, meals, lodging, and honoraria shall be paid by the applicant college. The estimated cost of
3 the site visit shall be paid by the college prior to the site visit, and final settlement regarding actual
4 expenses incurred shall be paid no later than thirty (30) days following the completion of the site
5 visit. Failure to pay these costs shall result in ineligibility under this administrative regulation.

6 Section 2. Integrity of college. (1) The college shall operate with integrity in all matters.

7 (2) The Council on Postsecondary Education reviews and approves colleges, not
8 individuals. Therefore, the college shall be responsible for any of its agents and any individual who
9 reports to the president on behalf of a college, either by virtue of his or her office or as delegated
10 by the chief executive officer of the college, in all matters regarding institutional integrity.

11 (3) Failure to respond appropriately to the president's decisions and requests or to make
12 complete, accurate, and honest disclosure shall be grounds for the president to impose a sanction,
13 including ineligibility under this administrative regulation.

14 Section 3. Core requirements. A college applying for approval by the Council on
15 Postsecondary Education under this regulation shall meet the following requirements: (1) Degree-
16 granting authority. The college shall be licensed by the Council on Postsecondary Education in
17 accordance with 13 KAR 1:020 prior to seeking eligibility under this regulation.

18 (2) Accreditation. The college shall be accredited by a regional accrediting agency.

19 (3) Governing Board.

20 (a) The college shall have a governing board of at least five members which shall be the
21 legal body with specific authority over the college.

1 (b) The board shall be an active policy-making body for the college and shall ultimately be
2 responsible for ensuring that the financial resources of the college are adequate to provide a sound
3 educational program.

4 (c) The board shall not be controlled by a minority of board members or by organizations
5 or interests separate from it.

6 (d) Both the presiding officer of the board and a majority of other voting members of the
7 board shall be free of any contractual, employment, or personal or familial financial interest in the
8 college.

9 (e) A military college authorized and operated by the federal government to award degrees
10 shall have a public board on which both the presiding officer and a majority of the other members
11 are neither civilian employees of the military nor active or retired military.

12 1. The board shall have broad and significant influence upon the college's programs and
13 operations, play an active role in policy-making, and ensure that the financial resources of the
14 college are used to provide a sound educational program.

15 2. The board shall not be controlled by a minority of board members or by organizations or
16 interests separate from the board except as specified by the authorizing legislation.

17 3. Both the presiding officer of the board and a majority of other voting board members
18 shall be free of any contractual, employment, or personal or familial financial interest in the
19 college.

20 (4) Chief Executive Officer. The college shall have a chief executive officer whose
21 primary responsibility is to the college and who is not the presiding officer of the board.

(5) Institutional Mission. The college shall have a clearly defined, comprehensive, and published mission statement that is specific to the college and appropriate for higher education. The mission shall address teaching and learning and, where applicable, research and public service.

(6) Institutional Effectiveness. The college shall engage in ongoing, integrated, and institution-wide research-based planning and evaluation processes that:

(a) incorporate a systematic review of institutional mission, goals, and outcomes;

(b) result in continuing improvement in institutional quality; and

(c) demonstrate the college is effectively accomplishing its mission.

(7) Continuous Operation. The college shall be in operation and shall have students enrolled in degree programs.

(8) Program Length.

(a) The college shall offer one or more degree programs based on:

1. at least sixty (60) semester credit hours or the equivalent at the associate level;

2. at least 120 semester credit hours or the equivalent at the baccalaureate level; or

3. at least 30 semester credit hours or the equivalent at the post-baccalaureate, graduate, or professional level.

(b) If a college uses a unit other than semester credit hours, then the college shall provide an explanation for the equivalency.

(c) The college shall provide a justification for all degrees that include fewer than the required number of semester credit hours or its equivalent unit.

(9) Program Content. The college shall offer degree programs that embody a coherent course of study that shall be compatible with its stated mission and shall be based upon fields of study appropriate to higher education.

1 (10) General Education.

2 (a) In each undergraduate degree program, the college shall require the successful
3 completion of a general education component at the collegiate level that is a substantial component
4 of each undergraduate degree, ensures breadth of knowledge, and is based on a coherent rationale.

5 (b) The component shall constitute a minimum of:

- 6 1. fifteen (15) semester hours or the equivalent for degree completion in associate
7 programs; or
8 2. thirty (30) semester hours or the equivalent for degree completion in baccalaureate
9 programs.

10 (c) These credit hours shall be drawn from and include at least one course from each of the
11 following areas: humanities and fine arts, social and behavioral sciences, and natural science and
12 mathematics.

13 (d) The courses shall not narrowly focus on those skills, techniques, and procedures
14 specific to a particular occupation or profession.

15 (e) If a college uses a unit other than semester credit hours, the college shall provide an
16 explanation for the equivalency.

17 (f) The college shall provide a justification if it allows for fewer than the required number
18 of semester credit hours or its equivalent unit of general education courses.

19 (11) Course Work for Degrees.

20 (a) The college shall provide instruction for all course work required for at least one degree
21 program at each level at which it awards degrees.

22 (b) If the college does not provide instruction for all course work and makes arrangements
23 for some instruction to be provided by other accredited colleges or entities through contracts or

1 consortia, or uses some other alternative approach to meeting this requirement, then the
2 arrangement or alternative approach shall be approved by the president.

3 (c) For either sub-section (10)(a) or (b) of this section, the college shall demonstrate that it
4 controls all aspects of its educational program.

5 (12) Faculty.

6 (a) The number of full-time faculty members shall be adequate to support the mission of
7 the college and to ensure the quality and integrity of its academic programs.

8 (b) Upon application for eligibility under this regulation, a college shall demonstrate that it
9 meets the required faculty qualifications.

10 (13) Learning Resources and Services.

11 (a) The college, through ownership or formal agreements, shall provide and support student
12 and faculty access and user privileges to adequate library collections and services and to other
13 learning and information resources consistent with the degrees offered.

14 (b) Collections, resources, and services shall be sufficient to support all its educational,
15 research, and public service programs.

16 (14) Student Support Services. The college shall provide student support programs,
17 services, and activities consistent with its mission that promote student learning and enhance the
18 development of its students.

19 (15) Financial Resources.

20 (a) The college shall have a sound financial base and demonstrated financial stability to
21 support the mission of the college and the scope of its programs and services.

22 (b) The college shall provide the following financial statements:

1 1. an institutional audit or Standard Review Report issued in accordance with Statements
2 on Standards for Accounting and Review Services issued by the AICPA for those colleges audited
3 as part of a systemwide or statewide audit;

4 2. written institutional management letter for the most recent fiscal year prepared by an
5 independent certified public accountant;

6 3. a statement of financial position of unrestricted net assets, exclusive of plant assets and
7 plant-related debt, which represents the change in unrestricted net assets attributable to operations
8 for the most recent year; and

9 4. an annual budget that shall be preceded by sound planning, subject to sound fiscal
10 procedures, and approved by the governing board.

11 (16) Physical Resources. The college shall have adequate physical resources to support the
12 mission of the college and the scope of its programs and services.

13 ~~[(17) Quality Enhancement Plan. The college shall have developed an acceptable~~
14 ~~Quality Enhancement Plan (QEP) that:~~

15 ~~(a) includes a broad-based institutional process identifying key issues emerging from~~
16 ~~institutional assessment;~~

17 ~~(b) focuses on learning outcomes and the environment supporting student learning~~
18 ~~and accomplishing the mission of the college;~~

19 ~~(c) demonstrates institutional capability for the initiation, implementation, and~~
20 ~~completion of the QEP;~~

21 ~~(d) includes broad-based involvement of institutional constituencies in the~~
22 ~~development and proposed implementation of the QEP; and~~

23 ~~(e) identifies goals and a plan to assess their achievement.]~~

1 Section 4. Comprehensive Standards. A college applying for approval by the Council on
2 Postsecondary Education under this regulation shall meet the following standards: (1) Institutional
3 Mission. The college's mission statement shall be current and comprehensive, shall accurately
4 guide the college's operations, shall be periodically reviewed and updated, shall be approved by
5 the governing board, and shall be communicated to the college's constituencies.

6 (2) Governance and Administration.

7 (a) The governing board of the college shall be responsible for the selection and the
8 periodic evaluation of the chief executive officer.

9 (b) Governing board control. The legal authority and operating control of the college shall
10 be clearly defined for the following areas within the college's governance structure:

- 11 1. college's mission;
- 12 2. fiscal stability of the college;
- 13 3. collegeal policy, including policies concerning related and affiliated corporate entities
14 and all auxiliary services; and
- 15 4. related foundations for athletics, research, and other areas and other corporate entities
16 whose primary purpose is to support the college and its programs.

17 (c) Board conflict of interest. The board shall have a policy addressing conflict of interest
18 for its members.

19 (d) External influence. The governing board shall be free from undue influence from
20 political, religious, or other external bodies and shall protect the college from such influence.

21 (e) Board Dismissal. The governing board shall have a policy whereby members can be
22 dismissed only for appropriate reasons and by a fair process.

1 (f) Board and Administration Distinction. There shall be a clear and appropriate
2 distinction, in writing and practice, between the policy-making functions of the governing board
3 and the responsibility of the administration and faculty to administer and implement policy.

4 (g) Organizational Structure. The college shall have a clearly defined and published
5 organizational structure that delineates responsibility for the administration of policies.

6 (h) Qualified Administrative and Academic Officers. The college shall have qualified
7 administrative and academic officers with the experience, competence, and capacity to lead the
8 college.

9 (i) Faculty and Staff Appointment. The college shall define and publish policies regarding
10 appointment and employment of faculty and staff.

11 (j) Administrative Staff Evaluations. The college shall evaluate the effectiveness of its
12 administrators on a periodic basis.

13 (k) Control of Intercollegiate Athletics. The college's chief executive officer shall have
14 ultimate responsibility for, and exercises appropriate administrative and fiscal control over, the
15 college's intercollegiate athletics program.

16 (l) Fund-Raising Activities. The college's chief executive officer shall control the college's
17 fund-raising activities exclusive of institution-related foundations that are independent and
18 separately incorporated.

19 (m) Institution-related foundations.

20 1. Any institution-related foundation not controlled by the college shall have a contractual
21 or other formal agreement that accurately describes the relationship between the college and the
22 foundation, and describes any liability associated with that relationship.

23 2. The college shall ensure that the relationship is consistent with its mission.

1 (n) Intellectual Property Rights.

2 1. The college's policies shall be clear concerning ownership of materials, compensation,
3 copyright issues, and the use of revenue derived from the creation and production of all intellectual
4 property.

5 2. These policies shall apply to students, faculty, and staff.

6 (3) Institutional Effectiveness. The college shall identify expected outcomes, assess the
7 extent to which it achieves these outcomes, and provide evidence of improvement based on
8 analysis of the results in each of the following areas:

9 (a) educational programs, to include student learning outcomes;

10 (b) administrative support services;

11 (c) educational support services;

12 (d) research within its educational mission, if appropriate; and

13 (e) community and public service within its educational mission, if appropriate.

14 (4) All Educational Programs. For all educational programs including on-campus, off-
15 campus, and distance learning programs and course work, the college shall meet the following
16 standards:

17 (a) Academic Program Approval. The college shall demonstrate that each educational
18 program, including all on campus, off-campus, and distance learning programs and course work,
19 for which academic credit is awarded is approved by the faculty and the administration.

20 (b) Continuing Education and Service Programs. The college's continuing education,
21 outreach, and service programs shall be consistent with the college's mission.

22 (c) Admissions Policies. The college shall publish admissions policies that are consistent
23 with its mission.

1 (d) Acceptance of Academic Credit.

2 1. The college shall have a defined and published policy for evaluating, awarding, and
3 accepting credit for transfer, experiential learning, advanced placement, and professional
4 certificates that is consistent with its mission and ensures that course work and learning outcomes
5 are at the collegiate level and comparable to the college's own degree programs.

6 2. The college shall assume responsibility for the academic quality of any course work or
7 credit recorded on the college's transcript.

8 (e) Academic Policies.

9 1. The college shall publish academic policies that adhere to principles of good educational
10 practice.

11 2. The college's academic policies shall be disseminated to students, faculty, and other
12 interested parties through publications that accurately represent the programs and services of the
13 college.

14 (f) Practices for Awarding Credit. The college shall employ sound and acceptable
15 practices for determining the amount and level of credit awarded for courses, regardless of format
16 or mode of delivery.

17 (g) Consortial Relationships and Contractual Agreements. The college shall ensure the
18 quality of educational programs and courses offered through consortial relationships or contractual
19 agreements, shall ensure ongoing compliance with the comprehensive requirements, and shall
20 evaluate the consortial relationship and agreement against the purpose of the college.

21 (h) Noncredit to Credit. The college shall award academic credit for course work taken on
22 a noncredit basis only when there is documentation that the noncredit course work is equivalent to
23 a designated credit experience.

1 (i) Academic Support Services. The college shall provide appropriate academic support
2 services.

3 (j) Responsibility for Curriculum. The college shall place primary responsibility for the
4 content, quality, and effectiveness of the curriculum with its faculty.

5 (k) Academic Program Coordination.

6 1. For each major in a degree program, the college shall assign responsibility for program
7 coordination, as well as for curriculum development and review, to persons academically qualified
8 in the field.

9 2. In those degree programs for which the college does not identify a major, this
10 requirement shall apply to a curricular area or concentration.

11 (l) Technology Use.

12 1. The college's use of technology shall enhance student learning and shall be appropriate
13 for meeting the objectives of its programs.

14 2. Students shall have access to and training in the use of technology.

15 (5) Undergraduate Educational Programs.

16 (a) College-level Competencies. The college shall identify college-level general education
17 competencies and the extent to which graduates have attained them.

18 (b) Institutional Credits for a Degree.

19 1. At least twenty (25) percent of the credit hours required for the degree shall be earned
20 through instruction offered by the college awarding the degree.

21 2. In the case of undergraduate degree programs offered through joint, cooperative, or
22 consortia arrangements, the student shall earn twenty (25) percent of the credits required for the
23 degree through instruction offered by the participating colleges.

1 (c) Undergraduate Program Requirements.

2 1. The college shall define and publish requirements for its undergraduate programs,
3 including its general education components.

4 2. These requirements shall conform to commonly accepted standards and practices for
5 degree programs.

6 (d) Terminal Degrees of Faculty. At least twenty (25) percent of the discipline course
7 hours in each major at the baccalaureate level shall be taught by faculty members holding the
8 terminal degree, usually the earned doctorate, in the discipline, or the equivalent of the terminal
9 degree.

10 (6) Graduate and Post-Baccalaureate Professional Educational Programs.

11 (a) Post-baccalaureate Program Rigor. The college's post-baccalaureate professional
12 degree programs, master's and doctoral degree programs, shall be progressively more advanced in
13 academic content than its undergraduate programs.

14 (b) Graduate Curriculum. The college shall structure its graduate curricula to include
15 knowledge of the literature of the discipline and to ensure ongoing student engagement in research
16 and appropriate professional practice and training experiences.

17 (c) Institutional Credits for a Degree. The majority of credits toward a graduate or a post-
18 baccalaureate professional degree shall be earned through instruction offered by the college
19 awarding the degree. In the case of graduate and postbaccalaureate professional degree programs
20 offered through joint, cooperative, or consortial arrangements, the student shall earn a majority of
21 credits through instruction offered by the participating colleges.

22 (d) Post-baccalaureate Program Requirements.

1 1. The college shall define and publish requirements for its graduate and post-baccalaureate
2 professional programs.

3 2. These requirements shall conform to commonly accepted standards and practices for
4 degree programs.

5 (7) Faculty.

6 (a) Faculty Competence.

7 1. The college shall employ competent faculty members qualified to accomplish the
8 mission and goals of the college.

9 2. When determining acceptable qualifications of its faculty, a college shall give primary
10 consideration to the highest earned degree in the discipline.

11 3. The college shall consider competence, effectiveness, and capacity, including, as
12 appropriate, undergraduate and graduate degrees, related work experiences in the field,
13 professional licensure and certifications, honors and awards, continuous documented excellence in
14 teaching, or other demonstrated competencies and achievements that contribute to effective
15 teaching and student learning outcomes.

16 4. For all cases, the college shall be responsible for justifying and documenting the
17 qualifications of its faculty.

18 (b) Faculty Evaluation. The college shall regularly evaluate the effectiveness of each
19 faculty member in accord with published criteria, regardless of contractual or tenured status.

20 (c) Faculty Development. The college shall provide ongoing professional development of
21 faculty as teachers, scholars, and practitioners.

22 (d) Academic Freedom. The college shall ensure adequate procedures for safeguarding
23 and protecting academic freedom.

1 (e) Faculty Role in Governance. The college shall publish policies on the responsibility
2 and authority of faculty in academic and governance matters.

3 (8) Library and Other Learning Resources.

4 (a) Learning and Information Resources. The college shall provide facilities and learning
5 and information resources that are appropriate to support its teaching, research, and service
6 mission.

7 (b) Instruction of Library Use. The college shall ensure that users have access to regular
8 and timely instruction in the use of the library and other learning and information resources.

9 (c) Qualified Staff. The college shall provide a sufficient number of qualified staff with
10 appropriate education or experiences in library and other learning and information resources to
11 accomplish the mission of the college.

12 (9) Student Affairs and Services.

13 (a) Student Rights. The college shall publish a clear and appropriate statement of student
14 rights and responsibilities and shall disseminate the statement to the campus community.

15 (b) Student Records. The college shall protect the security, confidentiality, and integrity of
16 student records and maintains special security measures to protect and back up data.

17 (c) Qualified Staff. The college shall employ qualified personnel to ensure the quality and
18 effectiveness of its student affairs programs.

19 (10) Financial Resources.

20 (a) Financial Stability. The college's recent financial history shall demonstrate financial
21 stability.

22 (b) Submission of Financial Statements.

1 1. The college shall provide financial profile information on an annual basis and other
2 measures of financial health as requested by the president.

3 2. All information shall be presented accurately and appropriately and shall represent the
4 total operation of the college.

5 (c) Financial Aid Audits. The college shall audit financial aid programs as required by
6 federal and state regulations.

7 (d) Control of Finances. The college shall exercise appropriate control over all its
8 financial resources.

9 (e) Control of Sponsored Research and External Funds. The college shall maintain
10 financial control over externally funded and sponsored research and programs.

11 (11) Physical Resources.

12 (a) Control of Physical Resources. The college shall exercise appropriate control over all
13 its physical resources.

14 (b) Institutional Environment. The college shall take reasonable steps to provide a healthy,
15 safe, and secure environment for all members of the campus community.

16 (c) Physical Facilities. The college shall operate and maintain physical facilities, both on
17 and off campus, that appropriately serve the needs of the college's educational programs, support
18 services, and other mission-related activities.

19 (12) Compliance with Federal Requirements.

20 (a) Student Achievement. The college shall evaluate success with respect to student
21 achievement including, as appropriate, consideration of course completion, state licensing
22 examinations, and job placement rates.

1 (b) Program Curriculum. The college's curriculum shall be directly related and
2 appropriate to the purpose and goals of the college and the diplomas, certificates, or degrees
3 awarded.

4 (c) Publication of Policies. The college shall make available to students and the public
5 current academic calendars, grading policies, and refund policies.

6 (d) Program Length. Program length shall be appropriate for each of the college's
7 educational programs.

8 (e) Student Complaints. The college shall have adequate procedures for addressing written
9 student complaints and shall be responsible for demonstrating that it follows those procedures
10 when resolving student complaints.

11 (f) Recruitment Materials. Recruitment materials and presentations shall accurately
12 represent the college's practices and policies.

13 (g) Title IV Program Responsibilities. The college shall be in compliance with its program
14 responsibilities under Title IV of the 1998 Higher Education Amendments.

15 Section 5. Action on Application. Within six (6) months of the submission of an
16 "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR
17 1:050" where a site visit is not conducted, or within ninety (90) working days of the completion of
18 a site visit, the president shall do one (1) of the following: (1) Approve the applicant college for
19 status as an eligible college in which a student may enroll and receive a Kentucky tuition grant;

20 (2) Deny the applicant college for status as an eligible college; or

21 (3) Notify the applicant college of deficiencies which shall be corrected before approval
22 can be granted.

1 Section 6. Substantive Change. (1) Approval pursuant to this regulation shall be specific
2 to a licensed college and based on conditions existing at the time of the most recent evaluation and
3 shall not be transferable to other colleges or entities.

4 (2) An approved college shall notify the president within thirty (30) days of action by an
5 accrediting agency that results in that results in the college being placed on probationary status, a
6 college losing accreditation, or a college being denied accreditation.

7 (3) The president shall be responsible for evaluating all substantive changes to assess the
8 impact of the change on the college's compliance with this regulation. The president may conduct,
9 or may have conducted a site visit in accordance with sub-section (6) of section 1 of this
10 administrative regulation.

11 (4) A college's failure to follow the president's procedures for notification and approval of
12 substantive changes shall be grounds for ineligibility under this administrative regulation.

13 (6) If a college is unclear as to whether a change is substantive in nature, then the college
14 shall contact the Council on Postsecondary Education in writing for consultation.

15 (7) A substantive change shall include the following:

16 (a) Action by an accrediting agency that results in the college being placed on probationary
17 status, a college losing accreditation, or a college being denied accreditation;

18 (b) Initiating distance learning;

19 (c) Initiating a merger or consolidation;

20 (d) Altering significantly the educational mission of the college;

21 (e) Relocating a licensed Kentucky instructional site or principal location of the college;

22 (f) Changing the college's governance, ownership, control, or legal status;

23 (g) Changing the name of the college;

1 (h) Altering significantly the length of a program;

2 (i) Initiating degree completion programs;

3 (j) Adding a new instructional site or program licensed in accordance with 13 KAR 1:020;

4 (k) Denial, suspension, or revocation of licensure by the Council on Postsecondary
5 Education pursuant to 13 KAR 1:020; and

6 (l) Closing the college, a Kentucky licensed instructional site, or a Kentucky licensed
7 program and initiating teach out agreements.

8 (8) Within six (6) months of notification by the college of a substantive change where a site
9 visit is not conducted, or within ninety (90) working days of the completion of a site visit, the
10 president shall do one (1) of the following:

11 (a) approve the substantive change and continued approval under this administrative
12 regulation without changing the approval period;

13 (b) deny the substantive change and require that the college abandon and not proceed with
14 the substantive change or else lose approval under this administrative regulation;

15 (c) notify the college of deficiencies which must be corrected before the substantive change
16 can be approved, and may suspend or revoke approval under this administrative regulation; or

17 (d) suspend or revoke approval under this administrative regulation.

18 Section 7. Hearings and Appeals. (1) The president may, for cause, require the chief
19 administrative officer, or other officers, of a college to appear for a hearing consistent with the
20 provisions of KRS Chapter 13B.005 – 13B.170, in order to determine the facts if the president has
21 determined that there are sufficient grounds for ineligibility under this administrative regulation.

22 (2) The officer, or other officers, of the college may be accompanied at the hearing by
23 counsel of their own choosing and at their expense.

1 (3) Within thirty (30) working days after a hearing is held, the president shall reach a
2 determination and shall issue findings, in writing, to the Council and to the chief executive officer
3 of the college.

4 (4) A college may appeal the actions of the president regarding a college's ineligibility
5 under this administrative regulation according to the following procedure:

6 (a) A college shall notify the president of the intent to appeal an action within fourteen
7 (14) days of the receipt of the letter notifying the college of the action taken;

8 (b) The president shall request that the Office of Administrative Hearings appoint a
9 hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS
10 13B.005 – 13B.170;

11 (c) The appeal shall be presented in writing no later than sixty (60) days following the
12 receipt of notification of intent to appeal;

13 (d) The appeals officer shall review findings of fact, consider testimony, draw conclusions,
14 and formulate a recommendation consistent with the facts and this administrative regulation;

15 (e) Within fourteen (14) days, the report of the appeals officer shall be forwarded to the
16 college and to the president of the Council on Postsecondary Education;

17 (f) The president shall act on the appeal at its next regular or special meeting; and

18 (g) Upon receipt of the report of the appeals officer, the president shall approve or not
19 approve the college.

20 Section 9. Incorporation by Reference. (1) "Application for Council on Postsecondary
21 Education Approval for Eligibility Pursuant to 13 KAR 1:050", **November 2009**, is incorporated
22 by reference.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
2 law, at the Kentucky Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320,
3 Frankfort, Kentucky 40601.

11/6/09
Date

Paul E. Patton
Paul Patton, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

11-6-09
Date

Dennis L. Taulbee
Dennis L. Taulbee, General Counsel
Council on Postsecondary Education

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation 13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant.

Contact person: Sarah Levy, Sr. Associate – Academic Affairs
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- (1) Provide a brief summary of:
- (a) What this administrative regulation does: This administrative regulation establishes the standards and requirements of licensed out-of-state colleges who seek to qualify as an eligible college in which a student may enroll and receive a Kentucky tuition grant.
 - (b) The necessity of this administrative regulation: KRS 164.785 requires that beginning with the 2011-2012 academic year programs or campuses of any out-of-state postsecondary education college that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction, but in which accreditation by the Southern Association of Colleges and Schools is not an option, shall be reviewed and approved by the Council on Postsecondary Education based on accreditation criteria that mirrors Southern Association of Colleges and Schools accreditation criteria in order to qualify as an eligible college in which a student may enroll and receive a Kentucky tuition grant.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.785(7)(c) requires that the Council on Postsecondary Education shall promulgate administrative regulations in accordance with KRS Chapter 13 A to carry out the provisions of that paragraph.

- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation sets out the standards and requirements that out-of-state licensed colleges must meet in to be approved by the Council to be an eligible college in which a student may enroll and receive a Kentucky tuition grant.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: N/A – this is a new regulation.
 - (b) The necessity of the amendment to this administrative regulation: N/A – this is a new regulation.
 - (c) How the amendment conforms to the content of the authorizing statutes: N/A – this is a new regulation.
 - (d) How the amendment will assist in the effective administration of the statutes: N/A – this is a new regulation.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 3 out-of-state colleges currently licensed by the Council on Postsecondary Education for which SACS is not an option as they are accredited by another regional accrediting agency whose students have been receiving Kentucky tuition grants.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The colleges would need to comply with the requirements and standards of this regulation in order to be an eligible college in which a student may enroll and receive a Kentucky tuition grant.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: There will be a cost to the Council anytime a college wants to seek to become an eligible college in which a student may enroll and receive a Kentucky tuition grant, to provide consultation to applicable colleges through this new process and coordinate qualified personnel to do review and site visit. As in our budget request, we estimate that the cost to the Council on Postsecondary Education will be about \$300,000 for this regulation and 13 KAR 1:020. This includes \$274,200 for personnel costs, including staff salaries and

fringes and professional services contracts with external consultants for site visits, and operating expenses of \$25,800 which includes postage, supplies, and travel.

(b) On a continuing basis: There will be a cost to the Council anytime a new college seeks to become an eligible college in which a student may enroll and receive a Kentucky tuition grant. Also, there will be costs for the Council whenever a college that is approved has a substantive change. As in our budget request, we estimate that the cost to the Council on Postsecondary Education will be about \$317,500 for 2011-2012 for this regulation and 13 KAR 1:020, and it is expected to increase in subsequent years. This includes \$290,100 for personnel costs, including staff salaries and fringes and professional services contracts with external consultants for site visits, and operating expenses of \$27,400 which includes postage, supplies, and travel.

- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KRS 164.785 provides that “[a]ll costs associated with the institutional reviews shall be the responsibility of the institution seeking approval by the council.” There will be an application fee of \$1,000. In addition, the regulation requires the college to pay for the cost of any site visit. And state appropriations will pay for staff and operating costs.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Yes, a fee will be necessary to implement this administrative regulation. This is a new regulation, and an application fee of \$1,000 is included.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this is a new regulation, and there is an application fee of \$1,000.
- (9) TIERING: Is tiering applied? Tiering is not appropriate under these circumstances.

Fiscal Note on State or Local Government

Regulation No. 13 KAR 1:020

Contact Person: Sarah Levy, 502.573.1555 ext. 350

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? This involves the licensure of private colleges, which is done by the state government's Council on Postsecondary Education.
2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This involves the licensure of private colleges, which is done by the state government's Council on Postsecondary Education.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.785, 164.020(37), 164.945, 164.946, 164.947.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - a. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? As in our budget request, we estimate that revenue for the Council on Postsecondary Education will be no more than \$300,000 for both this regulation and 13 KAR 1:020. The estimate includes revenue from proposed fees and from colleges paying the costs of site visits. This number should be considerably less since we are now proposing the elimination of some licensure fees originally proposed, and the decrease of some licensure fees originally proposed.
 - b. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? As in our budget request, we estimate that revenue for the Council on Postsecondary Education will be no more than \$317,500 for both this regulation and 13 KAR 1:020. The estimate includes revenue from proposed fees, state appropriations, and from colleges paying the costs of site visits. This number should be considerably less since we are now proposing the elimination of some licensing fees originally proposed, and the decrease of some licensing fees originally proposed.
 - c. How much will it cost to administer this program for the first year? As in our budget request, we estimate that the cost to the Council on Postsecondary Education will be about \$300,000 for this regulation and 13 KAR 1:020. This

includes \$274,200 for personnel costs, including staff salaries and fringes and professional services contracts with external consultants for site visits, and operating expenses of \$25,800 which includes postage, supplies, and travel.

- d. How much will it cost to administer this program for subsequent years? As in our budget request, we estimate that the cost to the Council on Postsecondary Education will be about \$317,500 for 2011-2012 for this regulation and 13 KAR 1:020, and it is expected to increase in subsequent years. This includes \$290,100 for personnel costs, including staff salaries and fringes and professional services contracts with external consultants for site visits, and operating expenses of \$27,400 which includes postage, supplies, and travel.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): estimate no more than \$300,000 first year, no more than \$317,500 for 2011-2012, and similar amounts for subsequent years.

Expenditures (+/-): estimate approximately \$300,000 first year, about \$317,500 for 2011-2012, and similar expenditures for subsequent years.

Other Explanation:

Summary of Material Incorporated by Reference

The “Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050”, November 2009, is the 18-page application form that an out-of-state licensed college, for which accreditation by the Southern Association of Colleges and Schools is not an option, is required to submit in order to seek approval from the Council on Postsecondary Education to qualify as an eligible college in which a student may enroll and receive a Kentucky tuition grant.